

**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION**

UNITED STATES OF AMERICA,

Plaintiff,

CRIMINAL NO. 11-CR-20311

vs.

HONORABLE LAWRENCE P ZATKOFF

CRAIG C. SANDERS,

Defendant.

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**ORDER DENYING DEFENDANT'S MOTION TO PAY FOR
NEUROPSYCHOLOGICAL EVALUATION**

This matter is before the Court on Defendant's Motion to Pay for Neuropsychological Evaluation of the Defendant [dkt 35].¹ The instant motion seeks reimbursement for a neuropsychological evaluation on Defendant performed by Dr. Bruno Giordani, resulting in a fee of \$1,337. For the reasons set forth below, Defendant's Motion is DENIED.

On March 11, 2010, Defendant Craig C. Sanders made a false distress report to the United States Coast Guard. On May 5, 2010, the Government filed a criminal complaint against Defendant for violation of 14 U.S.C. § 88 (knowingly and willfully communicating a false distress message to the United States Coast Guard). On August 6, 2010, Defendant was appointed counsel.

On November 15, 2010, Defendant's counsel filed an ex parte application for a psychiatric and psychological evaluation of Defendant to assist Defendant's counsel in preparation of Defendant's defense in this case under 18 U.S.C. § 3006A(e). On November 22, 2010, the Court

¹ The Court is also in receipt of Defendant's CJA 21 Authorization and Voucher for Expert and Other Services form, seeking approval for the neuropsychological evaluation that is the subject of this Motion. The Court received the Authorization and Voucher on December 8, 2011.

granted Defendant's ex parte application for a psychiatric evaluation. Dr. Margolis conducted the psychiatric evaluation. After the psychiatric evaluation, Defendant's counsel alleges that time was passing in Defendant's case and he ordered a neuropsychological evaluation of Defendant to be performed by Dr. Bruno Giordani. The neuropsychological evaluation was performed on August 12, 2011, resulting in a fee of \$1,337.

Prior to the neuropsychological evaluation, Defendant pled guilty to violating 14 U.S.C. § 88 on June 2, 2011. Defendant was sentenced on October 18, 2011. Defendant's counsel then filed the instant motion on November 18, 2011, seeking reimbursement for the evaluation that Dr. Giordani conducted on August 12, 2011.

Defendant's counsel, however, failed to seek the Court's authorization for the services performed by Dr. Giordani through an ex parte application under 18 U.S.C. § 3006A(e). Notwithstanding Defense counsel's failure to seek authorization prior to Dr. Giordani conducting his evaluation, the Court "may, in the interest of justice, and upon the finding that timely procurement of necessary services could not await prior authorization, approve payment for such services after they have been obtained, even if the cost of such services exceeds \$500." 18 U.S.C. § 3006A(5)(e)(2).

Aware of the facts of this case and considering Defendant's Motion and Brief, the Court does not find that it is in the interest of justice to approve payment for these services. The Court further finds that Defendant fails to show that there was not enough time for Defendant to file an ex parte application seeking the Court's authorization for Dr. Giordani's services prior to procurement of his services.

Accordingly, IT IS HEREBY ORDERED that Defendant's Motion to Pay for

Neuropsychological Evaluation of the Defendant [dkt 35] is DENIED.

IT IS SO ORDERED.

S/Lawrence P. Zatkoff
LAWRENCE P. ZATKOFF
UNITED STATES DISTRICT JUDGE

Dated: December 19, 2011

CERTIFICATE OF SERVICE

The undersigned certifies that a copy of this Order was served upon the attorneys of record by electronic or U.S. mail on December 19, 2011.

S/Marie E. Verlinde
Case Manager
(810) 984-3290